

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 78 be amended to read as follows:

- 1 Page 2, line 11, delete "subsection (b)," and insert "**subsections (b)**
- 2 **and (f)**".
- 3 Page 2, between lines 35 and 36, begin a new paragraph and insert:
- 4 **"(f) For purposes of this subsection, "highly compensated**
- 5 **employee" means an employee who earns more than one hundred**
- 6 **thousand dollars (\$100,00) annually. An employer shall not be**
- 7 **subject to the penalty set forth in subsection (a) with respect to a**
- 8 **highly compensated employee if the employer:**
- 9 **(1) is able to show by clear and convincing evidence that the**
- 10 **act or omission that gave rise to the alleged violation of section**
- 11 **1 of this chapter was made in good faith; and**
- 12 **(2) had reasonable grounds to believe that its actions were**
- 13 **lawful."**

(Reference is to SB 78 as printed January 19, 2005.)

Senator SIMPSON